

mission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Michael C. Ruger
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.

Federal Communications Commission

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FCC MAIL SECTION

Before the
Federal Communications Commission
Washington, D.C. 20554

DISPATCHED BY
MM Docket No. 93-30

In the Matter of

Amendment of Section 73.202(b), RM-8171
Table of Allotments,
FM Broadcast Stations.
(South Hill, Virginia)

NOTICE OF PROPOSED RULE MAKING

Adopted: February 9, 1993; Released: March 5, 1993

Comment Date: April 26, 1993
Reply Comment Date: May 11, 1993

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Old Belt Broadcasting Corporation ("petitioner"), licensee of Station WSHV-FM, Channel 255A, South Hill, Virginia, requesting the substitution of Channel 255C3 for Channel 255A at South Hill and modification of petitioner's license for Station WSHV-FM to specify operation on the higher powered channel. Petitioner states that it will apply for Channel 255C3, if allotted.

2. We believe the public interest would be served by proposing the substitution of Channel 255C3 for Channel 255A at South Hill, since it could provide the community with a wide coverage area FM service. Channel 255C3 can be allotted to South Hill in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.6 kilometers (5.3 miles) north to accommodate petitioner's desired site.¹ As requested, we also propose to modify petitioner's authorization for Station WSHV-FM to specify operation on Channel 255C3. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 255C3 at South Hill or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties. In addition, this proposal is contingent upon Station WLCQ-FM at Clarksville, Virginia, receiving a license to operate on Channel 252C3 in accordance with its outstanding construction permit (File No. BPH-920720IA). Therefore, we may not finalize this proceeding until the Clarksville station is licensed accordingly.

3. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

City	Present	Proposed
South Hill, Virginia	255A	255C3

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before April 26, 1993, and reply comments on or before May 11, 1993, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Earl R. Stanley
Wilkinson, Barker, Knauer & Quinn
1735 New York Avenue, N.W.
Washington, D.C. 20006
(Counsel for petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See *Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

7. IT IS ORDERED, That the Secretary of the Commission SHALL SEND a copy of this Notice by Certified Mail, Return Receipt Requested, to Clarksville Broadcasting Company, Inc., Highway 58 Box 983, Clarksville, Virginia 23927 (licensee of Station WLCQ-FM), and William Carlton Link, Route 1, Box 16, Highway 58 E, Lawrenceville, Virginia 23868 (permittee of Station WHFD-FM).

8. For further information concerning this proceeding, contact Pamela Blumenthal, Mass Media Bureau, (202) 634-6530. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Com-

¹ The coordinates for Channel 255C3 at South Hill are North Latitude 36-48-11 and West Longitude 78-08-45. Although the South Hill proposal is short-spaced to Station WLCQ-FM, Channel 252A, Clarksville, Virginia, and Station WHFD-FM, Channel 255A, Lawrenceville, Virginia, Station WLCQ-FM was modified effective April 20, 1992, to specify operation on Chan-

nel 252C3, in MM Docket No. 91-323. See 7 FCC Red 1793 (1992). Station WHFD-FM was modified effective January 15, 1993, to specify operation on Channel 288A, in MM Docket No. 92-128. See 7 FCC Red 7843 (1992). We will serve copies of this Notice on Station WLCQ-FM's licensee and Station WHFD-FM's permittee.